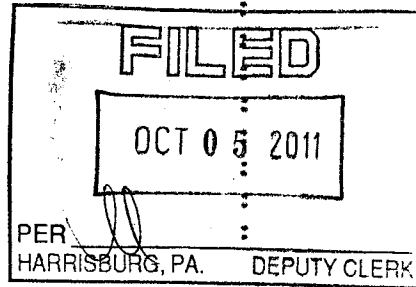


ROBBIE THOMAS PRO,SE.
VS.

LT.MR.McCOY Et,Al.



No.'s:1-cv-101639/("And
1:11-cv-1089 Et.Al.

✓ MOTION FOR RELIEF FROM JUDGEMENT PURSUANT TO FEDERAL RULES OF
CIVIL PROCEDURES, 60 (b).

COMES NOW, ROBBIE Thomas, PRO,SE.Petitioner herein in Pro,se.

Fashion,and moves this Honorable Court to rescind its Order of
September 22,2011,under FRCVP 60(b),in the united state District
Court for the Middle District befor the Honrable District Judge
Mr.Christopher C. Conner District Judge.

2)-The Order in question was issued by this Court on September
22,2011

3)-A Renewal of the Civil Action before the Court is needed and
shown why as follow:

4)-60(b)(1),Mistake,Inadvertence,Suprise or Excusable Neglect:

5)-On June 8th.2011 a "Order"went issed by the Court(Please)See
Original Federal Court order.

To Cure deficiencies concerning"Retaliation Claim",and (Doc.34)
went "Stricken".

6)-while the order was followed by the Pro,se Plaintiff with a
pro,se."Memorandum of Law" Coververing deficiencies as to
Retaliations-at best(See attached marked as Exhibit #1),namely at
location of number(14) that do address the name's also and
personal involvement(s) the Deficiencies were corrected as to the
"Retaliation"(s)issue.

7)-The Petitioner's original and other filing's were processed with the assistance of inmates at the State Correction(s) of both SCI-Huntingdon and took over at SCI-Mahanoy State Prison in Pennsylvania, in which a clear picture may not have been painted of the Constitutional factual due process violation(s), and or the other(s) that have been occurring as to the retaliation issue's at the time of its (1983) and Memorandum of Constitutional violations of Retaliation's that have been occurring do to once filing of a State Court Civil action against the Department Of Correction for personal injuries #2001 that also went settled by the Department of Corrections in 2003.

8)-At the time of filing of Civil Action No. 1:10-CV-1639, and 1:11-cv-1089 (Un-Consolidated) as sort and assumed by even the Department of Correction attorney on 1:11-cv-1089, the filing of a Motion to dismiss by the "DOC" Confirm's please see the filing of the Department of Correction attorney stating and requesting understanding as to it-and or a doing of the Consolidation, that was not done by this Court Clerity had been questioned and not done either by the court-assuming that matter #1:11-CV-1089 is still "Pending", and not addressed but, ruled on as to NO. 1:10-CV-1639.

9)-Pending is defined as:

Extraordinary Circumstances 60(b)(6), In a Civil Action No. 1:10-cv-1089 and No. 1:10-cv-1639 is still pending due to the facts of its early dismissal of the actual case before the Court.

This Court Must recind its actual order of 9-22-11 and allow what is only proper to continue based on actual federal court litigation due to error of the court's order of said September 22, 11.

Thus, we turn our attention to the term "Pending", "Pending is not

(1990) defines "Pending" as,

"Begun, but not yet completed; During; before the conclusion of;
prior to the completion of; unsettled; undetermined; in process of
settlement or adjudgement, and Awaiting an occurrence or conclusion of
action, period of continuance or indeterminacy. thus an action or
suit is "Pending" from its inception until the rendition of final
judgement. an action is "pending" after it is commenced by either
filing a complaint with the court or by service of a summons
(emphasis added).

This definition reflects the terms common usage.

Federal Court example as to even a case that dealt once before
as to a matter pending:

Deerwester VS. Carter 204 F.3d 417 (3rd Cir-2000), as to "Pending"
10)-The Petitioner at the time of the filings done prior hereto
was taking medications from the Mental health department at all
times, and that petitioner is working on his mental health recovery,
inasmuch as sort a better assistance to aid at the filings of the
court, whom isn't on any medications, and I ask this Honorable
Federal Court to truly understand-the new assistance effort's to
help and please excuse any prior mistakes, or lack of details or
specifics and in the discretion of the this Honorable Court, and
in the interest of justice and fairness, incline towards granting,
rather than denying relief, as the respondent will not be

prejudiced as they were never compelled by this Honorable
District Court to file a formal response to the extraordinary
circumstances that shall follow here in as to the issue of the

retaliation and it called on by total amendment of personal

involvements as to asked for "Amendment" of the Court #1:10-cv-1639

11)-The Constitutional Personal Involvement(s) now properly
follow based on Constitutional Specifics as asked for by the

Amendment as to Retaliation only.

12)-In 1999 Plaintiff Sustained injury due to a "Personal Injury" on a slip and fall off a Prison Door ramp at SCI-Huntingdon prison, and a state court civil action was filed and later settled in 2003, the State Court Civil Action also had listed the Medical department of the same state prison as defendants case#2001-863 please see attached of the actual state court legal settlement dated 12-9-03, and marked as Exhibit #2.

That matter had also been a known constitutional right to litigate by way of a "Personal injury" being legally addressed and Settled.

13)-At the time of originally addressing the injury by a protected right of constitutional protection a retaliation effort by that state Prison had started to unfold and went reported to the Psychiatrist who was assigned to my case file, his name is Doctor F.E. Wawrose (Psychiatrist) in 2002, and marked as exhibit number "3".

14)-The injury and its retaliations went reported then to the doctor and the usage of the "MISCONDUCTS" at Retaliations, however your plaintiff had escaped by being transferred to another State Prison being SCI-Frackville and years later transferred to another State Prison called SCI-Albion wherein the Retaliations "Re-took" up by the Department and its official(s), that I am told by a "Direct prison order" Not to write that prison, the matter went filed within the Court there and is dated 7-28-11 as to facts. And those who are personally involved as well.

15)-From a transfer from that State Prison back to the state Prison of SCI-Huntingdon the matter of facts re-took up and Plaintiff was the subject(s) of as shown in exhibit(3), bogus 141 write-up by also the prison originally injured at "Huntingdon" who was actually suited by a protected constitutional right at Litigations.

16)-At SCI-Huntingdon in 2008 when plaintiff returned he went put in the prison "RHU" without a write-up, and following the "Order's" of that prison Superintendent to the "Program Review Committ" SO

Done-by them.

Personally involved by order's issued were Superintendent

Mr.Lawyer.

Taking the"ORDER"were the program review committee;

Making then very self "Personally involved"As taking the order's

of the Superintendent there Mr.Lawyer,to them being also
defendent(s),Deputy Corbin-and the superintendent's assistance

Ms.Connie Green-taking also the other's to deny any other appeals

for write-up's there at SCI-Huntingdon State Prison.

Major Mr.Wakefield personally involved at his taking also order's
to keep me in the "RHU"and also Lt.McCoy of "RHU"At SCI-

Huntingdon PRC & taking order's to do what got did to me as to
the holding me also within the "RHU"and the hearing judge Mr.

Mitchell as stated and when asked why--I got called a "Legal

Begal"as to the matter of the past involving the personal injury

and the retaliations of stated,not just then--on a day after
released from the "RHU"("Restricted Housing unit"),Defendent

Ms.Jackson(Of the medical department at SCI-Huntingdon)State

PRISON(Stood with one of the prior state civil action)"Defendents
of the State Court civil action the day of her position took at

helping to retaliate against me by fabricating a state prison

write-up to put me in the state prison's RHU on 10-17-08 write-up

number A951154 for an alleged sexual harassment charge sentenced

to (90)days in the "RHU"and making herself personally involved

for other's who were listed in the state court civil action #2001
-863 that went settled in 2003 as stated and listed in exhibit#2

herein-the defendent that day was Mr.Doctor Luis Araneda"as
recalled being with MS.Jackson on 10-17-08-and he went not listed

but,the party used that day to retaliate against plaintiff,being
defendent Ms.Jackson of medical department at SCI-Huntingdon.

Plaintiff had a constitutional right to file the state court

civil action and not be retaliated against for haven done so.

Please see:Sprouse Vs.Babcock

(C.A.8(Iowa)1989)

Having been done as a form of actual retaliation is in total

violation of the state and federal Constitution,namely all went

done as to write-up's as originally started in exhibit(3)and told of with plaintiff's Mental health Doctor Mr.F.E.Wawrose in exhibit(3)

17)-The retaliations of write-up based on the retaliations for filing that state court civil action against that state prison at Huntingdon.

18)-PRC,Being the rest of the defendant's there,and listed within here and the filed 1983 With a served pro,se.memorandum of law,as to all the other's who were and are personally involved-being the deputie(s),and the major's there at SCI-Huntingdon State Prison who took order and directions from the state prison's "Superintendent"there at SCI-Huntingdon and their following the approval of directions out by helping to keep and hold the plaintiff in the restricted housing unit at SCI-Huntingdon.

19)-Acting on and off a total conspiracy in the Department of Corrections the matter's "Continued"making the other Superintendents a total matter of Conspiracy to follow-up on for them,namely at also the State Prison here at SCI-Mahanoy, the Superintendent Mr.Kerestest,and his "Program Review Comittee" following the Superintend's "Order and directions"keep plaintiff in the "RHU"when transfered from SCI-Huntingdon State Prison for the reason's stated-yet without having any state prison' issued write-up when got recieved by the prison of SCI-Mahanoy it was stated that the Superintend told the "PRC"program review comitte to keep and house plaintiff in his "RHU"as stated by the defendent "Krestest"to Plaintiff the day he came recieved at SCI-Mahanoy state prison.

The following of the direction/order's issued by the superintendent make's and allows the other"PRC Member's"be also personally involved,being Major Mr.Vuksta and acting off the fact came a year later once released from "RHU"here at SCI-Mahanoy an additional issued write-up by defendent Mr.Smith,that alleged a a total difference when locked "RHU"By this state prison's "Security Department"on 1-20-11,as stated for a inmate fight had

on alleged "Video" as per stated the "Security" department defendant (s), Capt. Gavin and Lt. Yankel usage of ex-officer Smith to extend Plaintiff's again "RHU" time and a possible transfer due to the nature of the misconduct of 1-20-11 by officer Smith. Whom are "Personally involved" as to the Conspiracy within the Department of corrections and the defendant's so listed and used.

20)-What have been also the Conspiracy as did to not just oneself but as to all who are tied unit the guist of the retaliations of

"RHU" stated and shown within the (1983)#1:10-cv-1639, the doings by DOC officials not just amounted to what went did to the

plaintiff based on the retaliations for haven filed a state court civil action for "Personal Injuries", but the offer to take out the

"RHU" is the position of seeking D.O.C. Prison information-for which

This plaintiff "Rejected" not just at this prison-but the other's

as well so listed and are personally involved, namely the security department defendant(s).

Please see what's marked as exhibit "8" that went filed by the plaintiff which is a inmate grievance #304142 identifying also the

very attempted stated as done by the Department Of Correction for

also their acts of retaliations, and it shown the State D.O.C. had

no reason's accept "Retaliation" for Plaintiff's having the right to file a civil action against the D.O.C. and returned back to the

prison of SCI-Huntingdon in 2008

21-Plaintiff having placed the continued retailations also at the personal involments regarding "Psychology" defendant who name had

to be corrected from the name being given to Plaintiff-the wrong

name of a defendant, and when the right name of the one who is personally involved was got Plaintiff advised the court of the

proper correct name which is: MR. CHARLIE BRINICH "PSYCHOLOGIST" AN

NOT AS MISLEAD AND TOLD "MR. VERNER" SEE ATTACHED EXHIBIT, AND ALSO

DOCKET ENTRY BEARING THE CORRECT NAME OF WHO IS PERSONALLY INVOLVED AS DEFENDENT WHOM SORT TO ATTEMPT WHAT'S BEEN ATTEMPTED AS STATED WITHIN EXHIBIT (8) HEREIN AS WELL WHEN I WAS PLACED IN THE "RHU" TO GET OUT I WAS "OFFERED" HIS ALLEGED PRISON INFOMATION

WHICH I REJECTED AT SCI-ALBION, SCI-HUNTINGDON, AND SCI-MAHANNOY STATE PRISON, NO THERE AT THE FIRST TWO STATE PRISON(S), AND NOW AS

WELL HERE AT SCI-MAHANOY STATE PRISON TOTAL ACTS OF RETALIATIONS MAKING THE PSYCHOLOGIST MR. BRINICH PERSONALLY INVOLVED IN THE RETALIATIONS AS WELL, NOT LIMITED TO THE MR. DEFENDENT MURICK WHO TOOK POSITION TO STRIP ME OF THE PRISON JOB EMPLOYMENT(S) TO PREVENT PLAINTIFF FROM HAVING PRISON FUNDS TO SEND OFF LEGAL MAIL AND POSTAGE TO THE FEDERAL DISTRICT COURT AS TO THIS MAILING OFF AS WELL, AND MAKING HIMSELF PERSONALLY INVOLVED IS DEFENDENT MR. NEVIS OF INMATES ACCOUNT AT DOING THE VERY SAME OF HELPING TO STRIP PLAINTIFF OF FUNDS TO LEGALLY LITIGANT AND SEND OUT LEGAL MAIL TO THE COURTS, AS STATED HEREIN MAKING HIMSELF ALSO A PERSON THAT IS PERSONALLY INVOLVED.

22)-As shown on the attached one page Docket entry Plaintiff was the illegal subject of having his very own legal mail taken by the prison when sent out by way of legal "Contents" to the Federal Court, and the mail was taken out by the prison officials-and returned to plaintiff stating "NO CONTENTS" only the envelope came back and Plaintiff sent to the Federal District Court at showing please see what's also marked as (#39) of 6-2-11 yet I went charged by inmates account official Defendant Nevis for postage and copies by his own personal involvements of retaliations.

Conclusion:

Section 1983 of title 42 of United States Code offers private citizen a cause of action for violations of federal law by state officials: see 42 U.S.C. § 1983.

The statute provides, in pertinent part, as follows:
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or District of

Columbia, subject, or causes to be subjected, any citizen of the United States or person within the jurisdiction thereof to deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

Id; see Also GONZAGA Univ. v. Doe, 536 U.S. 273, 284-85 (2002); Kneipp v. Tedder, 95 F.3d 1199, 1204 (3rd Cir. 1996) To State A claim under § 1983 a plaintiff must allege "The violation of a right secured by the Constitution and laws of the United States," and must show that alleged deprivation was committed by a person acting under color of state law." and in this case the issue is factually so.

West V. Atkins, 487 U.S. 42, 48 (1988).
Further stated and legally stood on is: A defendant in a civil rights action must have personal involvement in the alleged wrong doing's "Personal involvements" can be shown through allegations of Personal directions, or of actual knowledge and acquiescence, in support of: See Rode v. Dellarciprete, 845 F.2d 1195, 1207-8 (3rd Cir. 1988).

Atkinson v. Taylor, 316 F.3d 257 (3rd Cir. 2003), thus, individual liability can be imposed under Section by way of defendants here playing a affirmative part as stated and shown-this Honorable Federal Court must reside its order of September 22, 2011 at number so listed.

with "Two Separate Distinct Constitutional violations by the department of Corrections at continued "Retaliations" for once haven filed a "State Court" Civil Action" against SCI-Huntingdon State Prison" Federal Case Number 1:10-cv-1639, and 1:11-cv-1089 that was lefted "Pending" and un-addressed by this District Court, seeming to form a "Sua Sponte" (Consolidation) of two Separate Federal Court 1983's-Not saying at all the District Court didn't have the ability to do so as went did indirectly by the District Court, However the danger of said doing of such is apparent and the extraordinary circumstances is called on to be acknowledged within said filing of 60(b)(6), and 60(b)4, making the actual void Under 60(b) that went question by the "Defendants" as stated with in the stated at the foot note of the page number (2) in defendant's brief in support of motion to dismiss Plaintiff's Complaint that went did by the District Court leaving Federal Case 1:11-cv-1089 "Still Pending" and Un-Addressed inasmuch as one of the "Defendants" of the D.O.C. Had not been actually served by the District Court and the U.S. Marshall service of the Court as Originally "Ordered" to be "Charlie Brinich" "Psychologist" whom is "Personally Involved" in the actual Constitutional Violations of Retaliations".

The "Extraordinary Circumstances" Must be understood and this matter of "ORDER" Dismissing the Plaintiff's 1983 recided by the Court based on the "Extraordinary Circumstances" herein as stated by the the general purpose of rule 60(b)... is to strike a proper blance between the conflicting principles that litigation must be brought to an end and that justice must be done."

It is (Noted) the original Defendant(s) as stated by the department of correction and Plaintiff as to followed Constitutional Violation of Retaliations that followed are:
Mr. Major Vukata, Mr. Murick, "Charlie Brinich" (Gave name of Verner), Mr. Smith, and one of the actual Defendants went not served the 1983 Complaint 1:11-CV-1089 if so the matter of dismissal is void

Leaving the ("1983") At Number 1:10-cv-1639 "Still Pending".

The "Defendant"(s)filing of September 8th.2011 asking to dismiss

(1983)Confirms the facts stated within this 60(b).

Inasmuch as the District Court "Ordered"its dismissal of case

that shows no mentioning of actual review of the case that is

alleged to have been also involved in the filing of case#1:11-cv-1089.

Based on the extraordinary circumstances herein-the court should do what is only right in the interest of justice and fairness and recid the prior "Order"issued and signed by this Honorable Court.

The Judgement is void under ERCVP 60(b) (4) inasmuch as the

Extraordinary Circumstances of 60(b) (6),as stated it was a

danger at even alleging-and or doing a "Consolidation"of both

case(s)as stated even within the going of another matter cited to

show the actual danger of a "Consolidation"of a federal Court

filing,the case deals with a filing of a "Federal Court Habeas

Corpus Proceeding"that were filed "Separate" akin to the timely

filing(s)of both federal (1983)'s:1:11-cv-1089 and 1:10-cv-1639

and the actual "Confusion" at Challenging two separate and

distinct two "State Court"unrelated constitutional claims were

done and decided in a favorable decision due to the filing within

the federal District Court:

Please see:Rupert Vs.Johnson 83 F.Supp.801 807(W.D.TEX 1998)

The extraordinary circumstances there-aren't holding any going of

a actual difference as to the matter now before the federal district court,as the Court in Rupert looked at the danger of

mixing the"facts of the two distinct federal habeas corpus

petitions up,as seem to have went done in the case now before you

giving also rise for a reason to issue its "Rescind!"Of the

issued order dismissing and closing the file on this federally protected right and its followed retaliations by the Department

of Corrections as stated and very put forth herein by the help of

another on behalf of plaintiff Pro,se.Robbie Thomas.

The Dismissal of the Federal Case's and its still "Pending"one is
void under 60(b)(6) inasmuch as 60(b) (4)-however this District
Court Deems fit as to the filing of 60(b).

PROOF OF SERVICE :

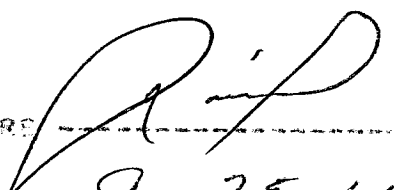
I,Robbie Thomas(CY-4327 Pro,ss. and on the behalf of, States the
following have been served a copy and the Court its original and
copy of the 60(b) with attached exhibits in support of the
being filed this date 9-28-11

1)-THE FEDERAL COURT CLERK FOR THE MIDDLE DISTRICT OF PA.
MRS.MARY R.D'ANDREA(CLERK)FOR JUDGE MR.CONNER BY AND THROUGH.
228 WALNUT.ST.P.O.BOX4993
Harrisburg,Pa.17108

2)-MR.JOSEPH G.PULGINITI ESQ.FOR (DOC):
1920 TECHNOLOGY PARKWAY
MECHANICSBURG,PA.17050

ROBBIE THOMAS(CY-4327
SCI-Manahoy State Prison
301 MOREA ROAD
TRACKVILLE,PA.17332

SIGNATURE

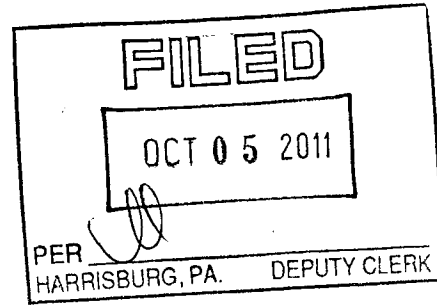
 74002

DATE:

9.25.11

Robbie Thomas
CY 4327
301 MOrca Road
Frackville, PA 17932

Clerk of Courts
United States District Court for the
Middle District of Pennsylvania
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17108




Dear Clerk;
Please file the enclosed pleading on my behalf. Please time stamp
and return one copy to me, and forward the third copy to Judge
Conners.

I am an indigent, pro se litigant. I did not have the funds to
provide the court with all of the exhibits. It is very hard for
me to get to the law library here at SCI Mahanoy. It is constantly
being closed. Further, my budget does not allow me to make as
many copies as I would to, or that I need.

I apologize for this inconvenience.

Respectfully,

cc: b1


ROBBIE THOMAS